

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:10CR225
)	
v.)	
)	
MARCEL EDWARD PARKS,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the court on its own motion. This matter is set for trial on November 30, 2010. The defendant was granted leave to file a motion out of time and has filed a motion to strike surplusage in the indictment. See Filing No. [36](#), motion; Filing No. 38, text order. The government has responded to that motion and it is now ripe for consideration. Filing No. [43](#). Accordingly, the court finds it necessary to vacate the trial order in this case. A new trial date will be set once the court disposes of the pending motion.

Under [18 U.S.C. § 3161\(h\)\(1\)\(D\)](#), “delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion” is excluded from the speedy trial calculation and the time limit for a “period of delay” when matters are under advisement is 30 days under [18 U.S.C. § 3161\(h\)\(1\)\(H\)](#).

IT IS HEREBY ORDERED:

1. The order setting trial for November 30, 2010 (Filing No. [35](#)) is vacated.

2. The Clerk of Court is directed to exclude the time between the filing of the defendant's motion and today's date and for thirty days thereafter from Speedy Trial Act calculation.

DATED this 17th day of November, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief District Court Judge

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